

COUNTY PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Monday, October 29, 2007

PRESENT: Commissioners Gene Mehlschau, Bob Roos, Anne Wyatt and Chairperson Penny Rappa

ABSENT: Commissioner Sarah Christie

RESOLUTION NO. 2007-039  
RESOLUTION RELATIVE TO THE GRANTING  
OF A VESTING TENTATIVE TRACT MAP/CONDITIONAL USE PERMIT

WHEREAS, the County Planning Commission of the County of San Luis Obispo, State of California, did, on the 29<sup>th</sup> day of October, 2007, grant a Vesting Tentative Tract Map (using the Transfer of Development Credits) /Conditional Use Permit to RANDY MCNAMEE to subdivide an existing 34.19 acre parcel into five clustered parcels, including one open space parcel of 24.19 acres and four parcels of 2.5 acres each for the purpose of sale and/or development. One Transfer of Development credit will be used for this tract. The project will result in the disturbance of approximately 60,000 square feet of a 34.19 acre parcel. The division will create one on-site road. The proposed project is within the Residential Rural land use category and is located at 3862 Highway 41 East, approximately 2 miles east of the community of Atascadero, in the El Pomar/Estrella planning area. Assessor Parcel Number:034-461-002. County File No: SUB2004-00300.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit based on the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 29th day of October, 2007, does hereby grant the aforesaid Permit, SUB2004-00300/TR 2711.

An approved or conditionally approved tentative tract map shall expire twenty-four months after its approval or conditional approval. The expiration of the approved or conditionally approved tentative tract map shall terminate all proceedings, and no tract map of all or any portion of the real property included within such tentative tract shall be filed without first processing a new tentative map. Upon application of the divider filed with the Department of Planning and Building prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend or conditionally extend the time at which such map expires for a period of periods not exceeding a total of five years pursuant to the provisions of Sections 66412.3, 66473 and 66474 of the Subdivision Map Act and Section 21.48.080 of the Real Property Division Ordinance (Section 21.06.010).

On motion of Commissioner Mehlschau, seconded by Chairperson Rappa, and on the following roll call vote, to-wit:

AYES: Commissioners Mehlschau, Chairperson Rappa, Commissioner Roos

NOES: Commissioner Wyatt

ABSENT: Commissioner Christie

the foregoing resolution is hereby adopted.

/s/ Penny Rappa  
Chairman of the Planning Commission

ATTEST:

/s/ Ramona Hedges  
Secretary, Planning Commission

**FINDINGS - EXHIBIT A**  
**Vesting Tentative Tract Map (SUB2004-00300/TR2711); McNamee**

*Environmental Determination*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 12, 2007 for this project. Mitigation measures are proposed to address aesthetics, agriculture, geology, public services, recreation, and land use and are included as conditions of approval.

*Tentative Map*

- B. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner of a Cluster Division within the Residential Rural land use category.
- C. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.
- D. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans because the improvements will be completed consistent with county ordinance and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.
- E. The site is physically suitable for the type of development proposed because the proposed parcels are clustered within the area of the site that is the least steep.
- F. The site is physically suitable for the proposed density of the development proposed because the site can adequately support five single family residences and five secondary residences while providing for 70.8 percent or 24 acres of open space area.
- G. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because mitigation measures have been derived to reduce impacts associated with this project to a level that is not significant.
- H. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.
- J. This site qualifies as a TDC Receiver site as follows: 1) the project is recommended for a mitigated negative declaration; (2) the site is not within agricultural preserve; (3) the site is within five miles of an urban reserve line (Atascadero urban reserve line); (4) the applicant has designated building sites and an access drive where the foot prints of development is located on less than 30 percent slopes; (5) the footprint of development is outside of SRA, FH, GSA, Earthquake Fault Zone and Very High Fire Hazard Area,

because none of the site is located within these areas; (6) the footprint of the development is outside of a Significant Biological, Geographical or Riparian Habitat as defined by the Natural Area Plan (appendix B of the Ag and Open Space Element of the general plan) because none of the site is located within these areas and (7) the development complies with all development standards, water, sewage, disposal and access standards and all land division standards as set forth in Titles 19, 21, and 22.

**CONDITIONS - EXHIBIT B**  
**Vesting Tentative Tract Map (SUB2004-00300/TR2711); McNamee**

**Approved Project**

1. This approval authorizes:

- a. Vesting Tentative Tract Map (Tract 2711) using the Transfer of Development Credits program to subdivide an existing 34.19 acre parcel into five clustered parcels, of 2.5 acres each and an one open space parcel of 24.19 acres.
- b. A 6,000 square foot building envelope on the open space parcel.

**Access and Improvements**

2. A private easement shall be reserved on the map for access to lots 1-5. All access other than the one existing driveway is denied from Highway 41.
3. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

**Improvement Plans**

4. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.

**Drainage**

5. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

**Utilities**

6. Electric and telephone lines shall be installed underground.
7. Cable T.V. conduits shall be installed in the street.
8. Gas lines shall be installed.

**Design**

9. The applicant shall apply to the Department of Planning and Building for approval of new street names prior to the filing of the final tract map. Approved street names shall be shown on the final parcel or tract map.

**Fire Protection**

10. The applicant shall obtain a fire safety clearance letter from the California Department of Forestry (CDF)/County Fire Department establishing fire safety requirements prior to filing the final tract map.

**Parks and Recreation (Quimby) Fees**

11. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational

purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them.

#### **Affordable Housing Fee**

12. Prior to filing the final tract map, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

#### **Easements**

13. An open space easement shall be recorded for the open space parcel. This includes a 6,000 square foot building envelope. All structures shall be located in the 6,000 square foot building envelope except agricultural accessory structures. The open space parcel is to be held in single ownership, in common by the Homeowner's Association, or transferred to a public trust or conservancy agency approved by the Department of Planning and Building. The open space parcel is to be maintained as such in perpetuity.

#### **Mitigations**

14. **Prior to recordation of the final map**, the applicant shall demolish or enter into a performance agreement and bond for removal of the existing barn located on proposed lot three to bring lot three into conformance with Land Use Ordinance standards.
15. **Prior to recordation of the final map**, the applicant shall provide evidence to the Planning and Building Department that this subdivision will adversely impact water supplies or quality for adjacent agricultural uses.

#### **Additional Map Sheet**

16. The applicant shall prepare an additional map sheet to be approved by the county Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:
  - a. **At the time of application for construction permits**, the applicant shall clearly delineate on the project plans the location and visual treatment of any new water tank(s). All water tanks shall be located in the least visually prominent location feasible when viewed from Highway 41. Screening with topographic features, existing vegetation or existing structures shall be used as feasible. If the tank(s) cannot be fully screened with existing elements, then the tank(s) shall be a neutral or dark, non-contrasting color, and landscape screening shall be provided. The applicant shall provide evidence that the proposed tank(s) are as low profile as is possible, given the site conditions. Landscape material must be shown to do well in existing soils and conditions, be fast-growing, evergreen and drought tolerant. Shape and size of landscape material shall be in scale with proposed tank(s) and surrounding native vegetation. Plans shall show how plants will be watered and what watering schedule will be applied to ensure successful and vigorous growth.
  - b. **At the time of application for construction permits**, the applicant shall submit architectural elevations of all proposed structures to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator. The elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including

vegetation, rock outcrops, etc. Darker, non-reflective, earth tone colors shall be selected for walls, chimneys etc. and darker green, gray, slate blue, or brown colors for the roof structures.

- c. **At the time of application for construction permits**, the applicant shall provide an exterior lighting plan. The plan shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from Highway 41. All lighting poles, fixtures, and hoods shall be dark colored. This plan shall be implemented **prior to final inspection or occupancy, whichever occurs first**.
- d. **Prior to transfer of the parcels created by this subdivision**, the applicant shall disclose to prospective buyers, of all parcels created by this proposal, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.
- e. An agricultural buffer prohibiting residential structures, consisting of 60 feet over lots two, three, four and five measured from the eastern property line, shall be shown on the additional map sheet. This buffer shall become null and void on individual parcels within this subdivision if future development precludes commercial agricultural production. Such a determination shall be made in consultation with the Agricultural Department.
- e. **At the time of application for construction permits**, the applicant shall clearly delineate the agricultural buffer consisting of 60 feet over lots two, three, four and five measured from the eastern property line on the project plans.
- f. **At the time of application for construction permits**, the applicant shall clearly delineate drainage control devices at the toe of the slope above proposed lot 5, as recommended in the geological report.
- g. Structure proposed on all lots shall be designed to resist ground shaking as outlined in the Uniform Building Code, as recommended in the geological report.
- h. A seepage pit system shall be used as an alternative to a conventional septic leach filed system due to the steep slope surrounding the building envelopes. The seepage pit system shall be designed by a civil engineer or licensed professional familiar with this type of disposal system, as recommended in the geological report. The seepage pits must meet basin plan requirements.
- i. That approval of the final map of the this subdivision included the use of Transfer Development Credits, the number of credits used, their registration numbers, and the location and assessor's parcel numbers of the sending site.

#### **Covenants, Conditions and Restrictions**

- 17. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide at a minimum the following provisions:
  - a. Maintenance of all local streets/easements within the subdivision until acceptance by a public agency.
  - b. Notification to prospective buyers that an additional map sheet was recorded with the final tract map. The restrictions, conditions and standards set forth in the

additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained in the additional map sheet.

**Miscellaneous**

18. This subdivision is also subject to the standard conditions of approval for all subdivisions using individual wells and septic tanks, a copy of which is attached hereto and incorporated by reference herein as though set forth in full.
19. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.



**FINDINGS – EXHIBIT C**  
**Conditional Use Permit (SUB2004-00300/TR2711); McNamee**

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 12, 2007 for this project. Mitigation measures are proposed to address aesthetics, agriculture, geology, public services, recreation, and land use and are included as conditions of approval.

Conditional Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the proposed land division and subsequent residences will have a similar density as the surrounding area.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project.

**EXHIBIT D - CONDITIONS OF APPROVAL**  
**Conditional Use Permit (SUB2004-00300/TR2711); McNamee**

**Approved Development**

1. This approval authorizes
  - a. A cluster subdivision of an existing 34.19 acre parcel into four clusters parcels of 2.5 acres each and one open space parcel of 24.19 acres.

**Conditions required to be completed at the time of application for construction permits**

2. An open space easement is recorded for the open space parcel. This includes a 6,000 square foot building envelope. All structures shall be located in the 6,000 square foot building envelope except agricultural accessory structures. The open space parcel is to be held in single ownership, in common by the Homeowner's Association, or transferred to a public trust or conservancy agency approved by the Department of Planning and Building. The open space parcel is to be maintained as such in perpetuity.
3. An agricultural buffer prohibiting residential structures, consisting of 60 feet over lots two, three, four and five measured from the eastern property line, shall be shown on the additional map sheet. This buffer shall become null and void on individual parcels within this subdivision if future development precludes commercial agricultural production. Such a determination shall be made in consultation with the Agricultural Department.
4. **At the time of application for construction permits**, the applicant shall submit a site plan, architectural elevations to detail exterior finish materials, colors, and height above finish grade on all sides of proposed buildings AND a landscape plan to the Department of Planning and Building for review and approval. These plans shall indicate the following and development shall be consistent with this revised and approved plan:
  - a. **At the time of application for construction permits**, the applicant shall clearly delineate on the project plans the location and visual treatment of any new water tank(s). All water tanks shall be located in the least visually prominent location feasible when viewed from Highway 41. Screening with topographic features, existing vegetation or existing structures shall be used as feasible. If the tank(s) cannot be fully screened with existing elements, then the tank(s) shall be a neutral or dark, non-contrasting color, and landscape screening shall be provided. The applicant shall provide evidence that the proposed tank(s) are as low profile as is possible, given the site conditions. Landscape material must be shown to do well in existing soils and conditions, be fast-growing, evergreen and drought tolerant. Shape and size of landscape material shall be in scale with proposed tank(s) and surrounding native vegetation. Plans shall show how plants will be watered and what watering schedule will be applied to ensure successful and vigorous growth.
  - b. **At the time of application for construction permits**, the applicant shall submit architectural elevations of all proposed structures to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator. The elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including vegetation, rock outcrops, etc. Darker, non-reflective, earth tone colors shall be selected for walls, chimneys etc. and darker green, gray, slate blue, or brown colors for the roof structures.

5. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

**Fire Safety**

6. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the CDF/County Fire Department for this proposed project.

**Services**

7. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposal, on the site.
8. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

**Conditions to be completed prior to issuance of a construction permit**

9. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
10. **Prior to issuance of construction permits**, if grading is to occur between October 15 and April 15, a sedimentation and erosion control plan shall be submitted pursuant to Coastal Zone Land Use Ordinance Section 23.05.036.

**Conditions to be completed prior to occupancy or final building inspection**

11. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.
12. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

**On-going conditions of approval (valid for the life of the project)**

13. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
14. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

**STANDARD CONDITIONS OF APPROVAL FOR SUBDIVISIONS  
USING INDIVIDUAL WELLS AND SEPTIC TANKS**

1. Each parcel shall have its own private well(s) for a domestic water supply approved by Environmental Health Services, except as set forth in 2d.
2. Operable water facilities shall exist prior to the filing of the final subdivision map. Evidence of adequate and potable water, shall be submitted to Environmental Health Services including the following:
  - A. Well Completion Report- The well log generated by the driller at the time the well is constructed.
  - B. Water Quality- A complete chemical analysis, to include general mineral, general physical and inorganics, shall be submitted for evaluation for each of the wells developed. Site evaluations may trigger additional testing requirements by Environmental Health Services. (Within last 5 years)
  - C. Production- On individual private wells, a minimum of a four hour pump test with draw down and recovery data by a **licensed** and **bonded** well driller or pump testing company, shall be submitted for review and approval for each well proposed for the subdivision. (Within last 5 years)
  - D. Shared Well System- The applicant shall contact Environmental Health Services for assistance in properly designing a shared water well system. A shared water well system review fee (said fee is separate from any fees paid through the County Planning and Building Department) shall be provided to this office prior to finaling the map.
3. On-site systems that are in conformance with the county-approved Central Coast Regional Water Quality Control Board basin plan and County Building and Construction Ordinance, Title 19, will be an acceptable method of sewage disposal until community sewers may become available.
4. No sewage disposal system installations are to be placed closer than 100 feet from the top of any perennial or continuous creek banks, drainage swales or areas subject to inundation.
5. Sewage disposal systems shall be separated from any individual domestic well and/or agricultural well, as follows: 1) leaching areas, feed lots, etc., one hundred (100) feet and bored seepage pits (dry wells), one hundred and fifty (150) feet. Domestic wells intended to serve 5 or more parcels shall be separated by a minimum of two hundred (200) feet from septic systems and dry wells.
6. Individual systems on new land divisions shall be designed and constructed to either reserve sufficient site area for dual leach fields (100% replacement area), or construct the dual leach fields with a diverter valve at the time of initial septic system installation.
7. Sewage disposal systems installed on slopes in excess of 20% shall be designed and certified by a registered civil engineer or geologist and submitted to the County Planning Department for review and approval **prior to the issuance of a building permit**. Consultants shall determine geologically stable building sites and sewage disposal for each parcel, including evaluations of hillside stability under the most adverse conditions including rock saturation and seismic forces. Slopes in excess of 30% are not considered suitable or practical for subsurface sewage disposal.

8. An encroachment permit shall be obtained from County Public Works for any work to be done within the county right-of-way.
9. An encroachment permit shall be obtained from the California Department of Transportation for any work to be done on the state highway.
10. Any existing reservoir or drainage swale on the property shall be delineated on the map.
11. Prior to submission of the map "checkprints" to County Public Works, the project shall be reviewed by all applicable public utility companies and a letter be obtained indicating required easements.
12. Required public utility easements shall be shown on the map.
13. Approved street names shall be shown on the map.
14. The applicant shall comply with state, county and district laws/ordinances applicable to fire protection and consider increased fire risk to area by the subdivision of the land proposed.
15. The developer shall submit a preliminary subdivision guarantee to County Public Works for review prior to recordation of the map.
16. Any private easements on the property shall be shown on the map with recording data.
17. All conditions of approval herein specified, unless otherwise noted, shall be complied with prior to recordation of the map.
18. After approval by the Review Authority, compliance with the preceding conditions will bring the proposed subdivision in conformance with the Subdivision Map Act and county ordinances.
19. A map shall be filed in accordance with Subdivision Map Act and county ordinance prior to sale, lease, or financing of the lots proposed by the subdivision.
20. A tentative map will expire 24 months from the effective date of the approval. Tentative maps may be extended. Written requests with appropriate fees must be submitted to the Planning Department prior to the expiration date. The expiration of tentative maps will terminate all proceedings on the matter.